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BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE FILING BY  
LOCAL EXCHANGE CARRIER  
ASSOCIATION, INC. FOR  
APPROVAL OF REVISIONS TO ITS  
ACCESS SERVICES TARIFF NO. 1

Docket No. TC12-040

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PUBLIC VERSION  
DIRECT TESTIMONY OF JO SHOTWELL  
SENIOR VICE PRESIDENT/BUSINESS COMPLIANCE OF  
CHR SOLUTIONS, INC.

November 29, 2012

1 DIRECT PRE-FILED TESTIMONY OF

2 JO SHOTWELL

3 **Q: Please state your name and business address.**

4 A: My name is Jo Shotwell and my business address is 5929 Balcones Drive, Suite 200,  
5 Austin, Texas.

6 **Q: Please state the name of your employer, your position, and whom you represent in**  
7 **this proceeding.**

8 A: I am employed with CHR Solutions, Inc. (CHR) as a Senior Vice President – Business  
9 Compliance. My responsibilities for CHR include management of the firm’s state and  
10 federal regulatory practice, including regulatory policy development, and contract  
11 management services. My practice is also responsible for all tariff development for our  
12 clients. In this proceeding I am representing the Local Exchange Carriers Association  
13 (LECA) and the City of Brookings Municipal Telephone Department (City of  
14 Brookings), an incumbent local exchange carrier (ILEC) operating in the State of South  
15 Dakota.

16 **Q: Please describe your educational background and your experience within the**  
17 **industry.**

18 A: I graduated from Florida State University with a Bachelor of Science Degree and have  
19 been employed in the telecommunications industry approximately 45 years. I was  
20 employed with Central Telephone and Utilities, now part of the CenturyLink system, for  
21 over eight years in Florida and Texas. In 1977 I joined the Public Utility Commission of  
22 Texas (TXPUC) and worked in the engineering division until 1984. While at the TXPUC  
23 I was involved with certification, quality of service, divestiture of AT&T, access, and

1 tariff and rate design issues for telecommunications utilities regulated by the TXPUC.  
2 Since 1984, I have been in the telecommunications consulting business.

3 **Q: Have you previously appeared as an expert witness?**

4 A: Yes, on many occasions. I have appeared before the TXPUC, before the State of  
5 Oklahoma and the State of New Mexico telecommunications regulatory agencies. In  
6 addition, I have presented testimony in proceedings in the District Court in Austin, Texas  
7 as well as before the Texas Legislature on issues related to telecommunications.

8 **Q: Have you previously appeared before the South Dakota Public Utilities Commission**  
9 **(SDPUC)?**

10 A: Yes, I have filed testimony in three proceedings before the SDPUC. I filed Rebuttal Pre-  
11 filed Testimony in TC06-176, Sprint's Petition for arbitration with Brookings Municipal  
12 Utilities d/b/a Swiftel Communications to resolve interconnection issues pursuant to the  
13 federal Telecommunications Act of 1996. I filed Direct Testimony on behalf of  
14 Brookings Municipal Utilities d/b/a Swiftel Communications in Docket No. TC07-007  
15 for suspension and modification of certain provisions of the federal Telecommunications  
16 Act of 1996. In 2007 I filed Direct Testimony on behalf of Venture Communications  
17 Cooperative for suspension and modification of local dialing parity and reciprocal  
18 compensation obligations.

19 **Q: Please describe your experience in regard to access tariffs?**

20 A: Since joining CHR Solutions, I have been responsible for the firm's access tariff  
21 products. CHR is the intrastate access tariff administrator for groups of small ILECs in  
22 the states of Texas, Oklahoma, and South Dakota, which includes the South Dakota

1 Network, LLC (SDN) intrastate Centralized Equal Access tariff and the LECA Intrastate  
2 Access Tariff in South Dakota. We have developed intrastate access tariffs in Tennessee  
3 and Kentucky. We also work with several clients that file their own interstate access  
4 tariffs similar to the interstate access tariff filed by the City of Brookings. In addition,  
5 my staff assists clients in tariff interpretation and pricing of services and carrier access  
6 billing audits. As tariff administer, CHR is called often to assist in interpretations of  
7 tariffs, including state and federal access tariffs and local exchange tariffs. As stated  
8 above, my staff administers the LECA Intrastate Access Tariff and as part of the initial  
9 filings in this proceeding, I was responsible for the preparation of all tariff revisions and  
10 the transitional rate development for all LECA members.

11 **Q: Please state the purpose of your testimony in this proceeding.**

12 A: On May 18, 2012, LECA filed a compliance access tariff filing on behalf of its member  
13 companies, including the City of Brookings, to support recently adopted intercarrier  
14 compensation rules. AT&T intervened in this proceeding to challenge the City of  
15 Brookings' proposed tariff page. The purpose of my testimony in this proceeding is to  
16 support the City of Brookings' access tariff revisions which include a transitional access  
17 rate made in compliance with the FCC's Report and Order and Further Notice of  
18 Proposed Rulemaking, FCC 11-161, adopted October 27, 2011 and released November  
19 18, 2011 (FCC Order or Order). The FCC Order outlines significant reform of intrastate  
20 and interstate intercarrier compensation rates and charges. In the Order, the FCC  
21 required that terminating intrastate switched access rates move to parity with terminating  
22 interstate switched access rates in both rate levels and rate structure by July 2013. The  
23 FCC specified through its rules the methodology for all ILECs to calculate a Transitional

1 Intrastate Access Service rate. The FCC also specified through its rules the methodology  
2 for calculation of a transitional per-minute charge rate. Attachment A of LECA's May  
3 18, 2012 filing provides details related to the steps the FCC ordered to transition to a  
4 national bill-and-keep intercarrier compensation methodology for the exchange of  
5 telecommunications traffic. For convenience, Attachment A of the May 18 filing is  
6 attached to this testimony as Exhibit A.

7 **Q: Are you providing legal analysis?**

8 A: No. I am not an attorney and the purpose of my testimony is not to provide legal analysis.  
9 My testimony is based on my experience in the industry and as administrator of access  
10 tariffs.

11 **Q: Please summarize your testimony.**

12 A: In the initial application in this proceeding, the LECA Intrastate Access Tariff was  
13 revised to comply with the FCC Order referenced above by filing, for terminating  
14 intrastate switched access, the rate structure and rate levels in the interstate switched  
15 access tariff of each LECA member company, including the City of Brookings. In  
16 addition, the LECA Intrastate Access Tariff was revised to include a transitional per-  
17 minute charge rate for all companies, including the City of Brookings. The FCC Order  
18 directs all ILECs to file their interstate rates and rate structure in effect on December 29,  
19 2011, the effective date of the FCC Order. The City of Brookings has its own interstate  
20 access tariff (City of Brookings Access Service, Tariff FCC No. 2) and, therefore, the  
21 interstate approved rates and rate structure in effect on December 29, 2011 in the City of  
22 Brookings' interstate access tariff were used for this compliance filing. In addition, by  
23 using FCC Rule §51.909 as required by the FCC Order, a per-minute transitional rate

1 applicable to terminating intrastate switched access minutes was filed. The transitional  
2 per-minute charge rate is in effect for a one year period (July 1, 2012 through June 30,  
3 2013). LECA used the same methodology for the City of Brookings that was used for all  
4 other LECA members in applying each member's terminating interstate rates and rate  
5 structure and in the calculation of each member's transitional per-minute charge rate.

6 **Q: Please identify the specific provisions or revised rules the FCC adopted that**  
7 **required the compliance filing?**

8 A: The rule revisions contained in the FCC Order became effective December 29, 2011.  
9 FCC Rule §51.909 - Transition of rate-of-return carrier access charges - describes the  
10 methodology for calculating the transitional rate. In §51.909(b), the FCC describes the  
11 first step in a 9-year transition to transition interstate End Office access rates to zero and  
12 §51.909(b)(1) requires all ILECs to file intrastate access tariff compliance filings to set  
13 forth the terminating intrastate rates to become effective July 1, 2012. In §51.909(b)(2),  
14 the FCC establishes the methodology to be used to calculate intrastate rates for  
15 Transitional Intrastate Access Service. Although not included as part of the intrastate  
16 compliance filing, in §51.909(c) through (j), the FCC sets forth the interstate End Office  
17 Access Service rate transition to zero for years 2 through 9 (July 1, 2013 through July 1,  
18 2020). In addition, §51.903 Definitions, defines some of the terms used in §51.909.  
19 §51.903(e) defines Fiscal Year 2011 (FY2011) as used in §51.909(2)(i) to mean switched  
20 access demand from October 1, 2010 through September 30, 2011. §51.903(j), defines  
21 Transitional Intrastate Access Service as terminating End Office Access Service,  
22 terminating Tandem-Switched Transport Access Service; and originating and terminating  
23 Dedicated Transport Access Service. §51.903(d) defines End Office Access Service as

1 the switching of access traffic at the ILEC's end office switch and the delivery of such  
2 traffic to or from the called party's premises or the routing of interexchange  
3 telecommunications traffic, either directly or through another entity, to or from the called  
4 party's premises. Finally, in §51.909(k), the FCC delegated to the states the approval of  
5 intrastate switched access rates to ensure compliance with the FCC Order. Attached as  
6 Exhibit B is a copy of the complete text of the referenced sections of the FCC rules -  
7 §51.903 Definitions and §51.909 Transition of rate-of-return carrier access charges.

8 **Q: Did the FCC provide any options for adopting the interstate switched access rate**  
9 **structures and rate levels in the intrastate switched access tariffs effective July 1,**  
10 **2012?**

11 A: Yes. In §51.909(b)(2), the FCC provided two options for adopting the interstate rate  
12 structures and rate levels. Under §51.909(b)(2)(iv), the FCC allows the ILECs to  
13 calculate their Transitional Intrastate Access Service rates by using their existing  
14 intrastate rate structure for Transitional Intrastate Access Service, effective July 1, 2012.  
15 However, no later than July 1, 2013, the ILECs must adopt their interstate rate levels and  
16 rate structures for Transitional Intrastate Access Service as stated in §51.909(c). Under  
17 §51.909(b)(2)(v), the FCC allows the ILECs to adopt their December 29, 2011 interstate  
18 rate structures and rate levels for Transitional Intrastate Access Service and allows ILECs  
19 to calculate and apply a per-minute transitional rate between July 1, 2012 and June 30,  
20 2013.

21 **Q: Which of these options did the City of Brookings elect?**

22 A: The City of Brookings, and all other LECA member companies, elected the option set  
23 forth in §51.909(b)(2)(v) for Transitional Intrastate Access Service effective July 1, 2012.

1 Under this option, the LECA intrastate switched access tariff for the City of Brookings  
2 was revised to adopt the City of Brookings' December 29, 2011 interstate rate levels and  
3 rate structure. A copy of the City of Brookings revised tariff, Original Page 17-4.5, was  
4 filed as part of the May 18, 2012 LECA filing. A subsequent filing was made on August  
5 15, 2012 to revise footnote 1 at AT&T's request. A copy of the August 15 filed tariff  
6 page is attached to this testimony as Exhibit C.

7 **Q: Please describe the steps used to develop the Transitional Access Service Rates in**  
8 **compliance with the FCC Order.**

9 A: As set forth in §51.909(b)(2)(ii), monthly FY 2011 demand and revenue data for the City  
10 of Brookings was obtained from LECA's records to determine the FY 2011 actual  
11 terminating intrastate switched access demand (i.e. minutes of use) and revenues, by rate  
12 element. This data, through the normal LECA administrative procedures, is certified by  
13 the City of Brookings as to its accuracy on a monthly basis. The LECA records include  
14 all access demand from Interexchange Carriers, other IntraLATA Toll Providers and  
15 terminating intrastate interMTA traffic from wireless carriers for the FY2011 demand.  
16 As set forth in §51.909(b)(2)(i), total terminating access revenue was calculated using the  
17 FY2011 terminating intrastate demand by applying the City of Brookings' approved  
18 interstate switched access rates and rate structure in effect on December 29, 2011. As set  
19 forth in §51.909(b)(2)(iii), one-half of the revenue reduction that resulted from  
20 subtracting the total revenue calculated in §51.909(b)(2)(i) from the actual total revenue  
21 calculated in §51.909 (b)(2)(ii) was calculated. Finally, electing the option set forth in  
22 §51.909(b)(2)(v), the revenue reduction calculated in §51.909(b)(2)(iii) was divided by

1 the FY2011 End Office switching minutes in accordance with §51.909(b)(2)(v) to  
2 develop the intrastate transitional per-minute charge rate.

3 **Q: Why did you use End Office switching minutes to calculate the intrastate**  
4 **transitional per-minute rate?**

5 A: §51.909(b)(2)(v) instructs the ILECs to use end office switching minutes as the  
6 denominator to calculate the transitional per-minute rate.

7 **Q: Was the Commission provided documentation showing the math used to calculate**  
8 **the City of Brookings's transitional rate?**

9 A: Yes. The initial LECA compliance filing contained a confidential worksheet for each  
10 LECA member company that showed the calculations described above. The City of  
11 Brookings' confidential worksheet is being refiled as part of this testimony as  
12 Confidential Exhibit D.

13 **Q: Please describe the worksheet as it applies to the rules you discussed above.**

14 A: I will reference the line numbers from the confidential worksheet and cross-reference the  
15 applicable FCC rule.

- 16 • Line 3 on the confidential worksheet represents the FY 2011 Intrastate Switched Access  
17 Revenue billed by the City of Brookings. This was calculated by taking the FY2011  
18 demand multiplied by the December 29, 2011 approved intrastate access rate of \$0.125  
19 per minute of use. This calculation complies with FCC rule §51.909(b)(2)(ii). The  
20 FY2011 demand was obtained from LECA records.

- 1 • Lines 7 – 37 represent the FY2011 intrastate demand repriced at the December 29, 2011  
2 interstate access rates and rate structure. §51.909(b)(2)(v) instructs the ILECs to use end  
3 office switching minutes as the denominator to calculate the transitional per-minute rate.
- 4 • The End Office demand on Line 7 has been reduced because, pursuant to the City of  
5 Brookings’ interstate access tariff, the End Office rate element is not applied to wireless  
6 terminating demand. Transport changes in the City of Brookings interstate access tariff  
7 are applied to wireless minutes and, therefore, the demand on Lines 12, 17 and 23 has not  
8 been reduced. The City of Brookings provided the wireless demand based on its billing  
9 records. Line 37 is total terminating intrastate access revenue based on intrastate demand  
10 at interstate access rates and rate structure. This calculation complies with FCC rule  
11 §51.909(b)(2)(i) and §51.909(b)(2)(v). §51.909(b)(2)(v) references use of the interstate  
12 rate structure.
- 13 • Line 39 is the difference between Line 3 and Line 37, or, in other words, the difference in  
14 revenues that would have been generated if interstate rates and rate structure were in  
15 effect during the FY2011 test period.
- 16 • Line 42 represents the 50% difference of Line 39. This calculation complies with  
17 §51.909(2)(b)(iii).
- 18 • Line 44 represents the transitional per-minute charge rate that results by taking the  
19 revenues on Line 42 divided by the End Office demand on Line 7. The resulting rate is  
20 \$0.094633. However the FCC rule indicates that the transitional per-minute charge  
21 should not produce revenue in excess of the revenues the carrier would have obtained at  
22 the original intrastate rate (in this case, \$0.125 per minute). The \$0.094633 rate was

1 adjusted downward to \$0.093377 to meet this requirement. This calculation complies  
2 with §51.909(b)(2)(v) and the capped rate requirement of §51.909(a)(2).

3 **Q: Did the City of Brookings have an opportunity to review the calculations prior to**  
4 **the filing?**

5 A: Yes they reviewed and agreed with the filed calculations.

6 **Q: Do you believe the calculations for the City of Brookings are in compliance with the**  
7 **FCC Order and rules?**

8 A: Yes I do. The methodology used to calculate the City of Brookings' transitional rate is  
9 the same methodology used for all other LECA members. This same methodology was  
10 also used by my firm for approximately 100 ILECs in the states of Texas, Oklahoma,  
11 Kentucky, and Missouri.

12 **Q: Based on the calculations filed, does the City of Brookings recover more than its**  
13 **FY2011 intrastate switched access revenue?**

14 A: No. The City of Brookings' revenue from intrastate switched access service based on its  
15 interstate rates and rate structure and the transitional per-minute charge rate for 2012 is  
16 projected to be [BEGIN CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] The  
17 City of Brookings' FY2011 intrastate switched access service revenue was [BEGIN  
18 CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] Therefore, the City of  
19 Brookings' 2012 intrastate switched access service revenue is projected to be [BEGIN  
20 CONFIDENTIAL] [REDACTED] [END CONFIDENTIAL] less than FY 2011 revenue. (The  
21 projected 2012 time period is July 2012-June 2013.)

22 **Q: Does this conclude your testimony?**

1 A: Yes it does.